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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,156	01/12/2001	Kazuya Otsuji	0445-0293P	8912
7590 10/23/2003 BIRCH, STEWART, KOLASCH & BIRCH, LLP P.O. Box 747 Falls Church, VA 22040-0747			EXAMINER BALSIS, SHAY L	
			ART UNIT 1744	PAPER NUMBER

DATE MAILED: 10/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/758,156

Applicant(s)

OTSUJI ET AL.

Examiner

Shay L Balsis

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.

- 7) ☒ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2-3 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 states the limitation “a support of sheet form laminated with said synthetic elastomer.” Examiner is unsure what sheet form is?

Claim 3 states that there are “projections and depressions on the surface thereof or perforations.” Is applicant claiming “projections and depressions” or “perforations” at the same time or “projections” or “depressions or perforations”? It is unclear as to how to interpret the claim language.

It is unclear what is being claimed in claim 5. It is worded in a way that is difficult to understand. How is the elastomer folded with the cushioning material? And what is outside? Outside with reference to what?

Correction is necessary.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1-6 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Francoeur Sr, et al. (USPN 5569521).

With respect to claim 1, Francoeur discloses a cleaning pad for removing dry particles from surfaces such as clothing, upholstery and the like. The surface of the cleaning pad comprises a sheet made of an elastomeric material (22). This elastomeric material forms the cleaning surface of the pad. The cleaning surface is substantially flat and has a plurality of depressions with a discontinuous shape and arranged regularly. Dictionary.com teaches that a depression is "an area that is sunk below its surroundings." It is clearly shown in figures 4-6 that depressions are formed on the cleaning surface. The record is silent as to whether or not the elastomer sheet has a maximum static frictional force within the range of 9.8-29 N. Since it has all the same structural elements of the claimed invention, it is obvious, as well as inherent, that the elastomers structure disclosed would produce the frictional force test results claimed.

~~With respect to claim 2, Francoeur discloses a support sheet (28) this is made of “a~~
substantially thin strip of relatively rigid yet bendable and resilient material” (col. 2, lines 61-64).

This support sheet is laminated to the elastomeric material using a rubber based glue.

With respect to claim 3, Francoeur discloses that the elastomeric material has piles or projections (see fig. 5).

With respect to claim 4, Francoeur discloses that the support sheet is made of a high density polyethylene. High density polyethylene can come in many forms including film.

With respect to claim 5, Francoeur discloses a cushioning material (40) that is adhered to the support (28). The cushioning material is formed of a flexible material that prevents wear.

~~The cushioning material is then folded around the outside the device so that the elastomer was~~
the outside cleaning surface (see fig. 6)

With respect to claim 6, Francoeur discloses a support/cushion sheet (28) this is made of “a substantially thin strip of relatively rigid yet bendable and resilient material” (col. 2, lines 61-64). This support/cushion sheet is laminated to the elastomeric material using a rubber based glue. The device includes a holding member (40) with a depression while the cushion has a protrusion, which fits into the depression (see fig. 6). The elastomer (22) is attached to the cushion so that the elastomer forms the cleaning surface for the device.

6. Claims 1-3 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kuwabara (GB 2200380 A).

With respect to claim 1, Kuwabara discloses a device for removing fibrous pill from fabric surfaces. The device comprises an elastomeric material (8) disposed on the device to clean the surfaces. The cleaning surface is substantially flat (more than 51%) and has a plurality

of depressions with a discontinuous shape and arranged regularly. Dictionary.com teaches that a depression is “an area that is sunk below its surroundings.” It is clearly shown in figure 4 that depressions are formed on the cleaning surface. The record is silent as to whether or not the elastomer sheet has a maximum static frictional force within the range of 9.8-29 N. Since it has all the same structural elements of the claimed invention, it is inherent that the elastomers structure disclosed would produce the frictional force test results claimed.

With respect to claim 3, Kuwabara discloses that the elastomeric material has projections and depressions located on the surface of the thereof (see fig. 4). The elastic arms (9) represent the projections while the depressions fall in between the projections.

7. Claims 1-6 is rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Nissing (USPN 6270875).

Nissing discloses a multilayer wipe. The device comprises a thermoplastic material (2000) disposed on the device to clean the surfaces. A thermoplastic is a type of elastomer. The cleaning surface is substantially flat and has a plurality of depressions (2041) with a discontinuous shape and arranged regularly. Dictionary.com teaches that a depression is “an area that is sunk below its surroundings.” It is clearly shown in figure 5 that depressions are formed on the cleaning surface. The record is silent as to whether or not the elastomer sheet has a maximum static frictional force within the range of 9.8-29 N. Since it has all the same structural elements of the claimed invention, it is inherent that the elastomers structure disclosed would produce the frictional force test results claimed.

With respect to claim 3, Nissing discloses that the elastomeric material has projections and depressions (2060, see fig. 5).

With respect to claims 2 and 4, Nissing discloses a support sheet (3000) that is made of a nonwoven web.

With respect to claim 5, Nissing discloses a cushioning material (1000) that is adhered to the support. The cushioning material is formed of a flexible material that prevents wear. The cushioning material is then folded around the outside the device so that the elastomer was the outside cleaning surface (see figs. 3B-3D)

With respect to claim 6, Nissing discloses a holding member (1100) which forms a depression. A cushioning material (1000) forms a projection that fits in the depression to attach the two components (see figures 3B-3D). The elastomer is attached to the cushion so that the elastomer forms the cleaning surface for the device.

8. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Francoeur, Sr. et al. (USPN 5569521).

Francoeur discloses all the essential elements of the claimed invention as recited above, however, the fails to mention what exact elastomer is used for the cleaning pad. Since various types of elastomers are known in the art, it would have been obvious to one skilled in the art at the time the invention was made to use the elastomer or combination of elastomers that best corresponded to the functions and structures of the device as a matter of obvious engineering choice. In re Leshin, 125 USPQ 416.

9. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nissing (USPN 6270875).

Nissing discloses all the essential elements of the claimed invention as recited above, however, the fails to mention what exact elastomer is used for the cleaning pad. Since various

types of elastomers are known in the art, it would have been obvious to one skilled in the art at the time the invention was made to use the elastomer or combination of elastomers that best corresponded to the functions and structures of the device as a matter of obvious engineering choice. In re Leshin, 125 USPQ 416.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L Balsis whose telephone number is 703-305-7275. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 703-308-2920. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5665.

Slb
9/26/03

Robert J. Warden, Sr.
Supervisor
Examination
703-308-2920